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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,734	02/05/2007	Karl Freudelsperger	16785.8	9569
22913	7590	08/10/2009	EXAMINER	
Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			WEEKS, GLORIA R	
		ART UNIT	PAPER NUMBER	
		3721		
		MAIL DATE		DELIVERY MODE
		08/10/2009		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,734	<b>Applicant(s)</b> FREUDELSPERGER, KARL
	<b>Examiner</b> GLORIA R. WEEKS	<b>Art Unit</b> 3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 June 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. This action is in response to the amendment and remarks received on June 9, 2009.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2009 has been entered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-21 and 24-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Siegel et al. (USPN 7,334,379).

In reference to claims 1-21 and 24-30, Siegel al. discloses a method and system for filling containers 45 with tablets, the system comprising: a reception means 12 (column 2 lines 38-41, 59-63; column 3 lines 18-33); a tablet dispensing station 80 including a plurality of tablet type automatic dispensers 82, 84, 86 each having a common magazine; allocation means (not shown)

designed for determining from the data entered in the reception means the number of tablets of the respective types of tablets to be allocated to a respective tablet container and the availability of the tablets (column 1 line 59-column 2 line 1, 31-49; column 4 lines 27-30); tablet container closing means 40; a tablet container filling system 32, 47 having structure to support an information carrier 32 and a tablet container conveyor 44; information carrier 32 including a barcode and consumption instructions; an information carrier reader 42 that confirms supply of tablets in tablet dispenser prior to packaging/sealing of tablets in tablet container 83 (column 7 lines 4-6); a rejection station 43 that removes improperly filled tablet containers (removes all containers, including improperly filled containers); and an accumulation station 65, 88 that collects all tablets required to fill an order.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegel et al. (USPN 7,334,379) in view of Kim (USPN 6,449,921).

Regarding claims 22 and 23, Siegel et al. discloses a method and system for filling containers with tablets, comprising a tablet dispensing station 80 including a plurality of tablet type automatic dispensers 82, 84, 86 each having a common magazine. Siegel et al. discloses a variety of automatic dispensers to be oriented in a stationary magazine, such that each dispenser

contains a respective type of tablet to be dispensed to a common accumulation section. Kim teaches a method and system for filling containers with tablets, the system comprising: a reception means 51; a tablet dispensing station including at least one automatic dispensers 44 of a plurality of types of tablets having a common magazine 16 with replaceable buffer containers 52, and a rotary dispenser 14; allocation means 12 designed for determining from the data entered in the reception means 51 the number of tablets of the respective types of tables to be allocated to a respective tablet container 68; tablet container closing means 76. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method and system of Siegel et al. to include a rotary dispenser, since 1 lines 33-49 of Kim states that such a modification is space efficient and improves tablet supply performance.

*Response to Arguments*

7. Applicant's arguments filed June 9, 2009 have been fully considered but they are not persuasive.
8. Applicant has first requested clarification on Examiner's interpretation of how the structure disclosed and referenced by Siegel et al. execute the steps of Applicant's claimed method. Thus, Examiner has amended the rejection above to cite specific columns and lines of the Siegel et al. disclosure, which exhibit the steps claimed by Applicant.
9. Applicant first argues that Siegel et al. fails to disclose the step of "receiving a patient order containing a patient identification and at least one prescription comprising prescription data regarding the types of tablets to be taken by the patient and instructions for taking the tablets". Examiner has found this limitation to define two steps: receiving a patient order specific to a patient; and receiving a prescription defining the type of medication and dosing of medication for

the respective patient. With respect to the first step of receiving a patient order, column 2 lines 38-63 state that the filling of the packages is controlled by a computer based on the dosing requirements of a respective patient, thus canisters, individually containing a particular medication, receive a patient order as dictated by the computer. Column 3 lines 18-33 further articulate a step of allocating prescription data based on the patient order (morning and evening dosages) for a specific patient based on the order received from the computer which control the canisters that dispense a particular medication.

10. Siegel discloses a system capable of automatically manufacturing a plurality of tablet containers filled with distinct patient prescription, wherein a bar code reader is provided for the purpose of printing a label that corresponds to a specific tablet container filled in response to a specific patient order. The label includes the patient identification that corresponds to a patient order, thereby ensuring that a specific patient receives the appropriate table container. Therefore, examiner agrees with Applicant's assessment that the device of Siegel receives patient data for a tablet container "after" the tablet has been filled. However, this does not negate the fact that patient data is received prior to the reading of the card post filling. Prior to filling the tablet container, patient data is received to control the actual filling of the container, whereas the patient data received after the filling of the container controls the label printing associated with the container filled based on the patient order initially received prior to filling.

Column 4 line 62- column 5 line 3 states that a card including a "bar code" associated with a specific patient order is oriented to receive a specific dosage of medication from a pharmaceutical collector. The bar code is not legible to a patient and simply provides filling information to the system of Siegel disclosed. Thus the step of providing a bar code reader that

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deciphers the bar code is deemed necessary so that a label readable by a patient may be printed and applied to the tablet container. Column 6 lines 25-38 of Siegel state that step of receiving the patient order and dosage information both before and after filling of the tablet container reduces the chances of error of a patient receiving the wrong tablet container or a patient receiving the wrong information regarding the medication provided in the filled tablet container.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit  
3721

August 10, 2009